

House File 537 - Introduced

HOUSE FILE _____
BY HEATON

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring a national criminal history record check for
2 certain child care providers and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1297YH 83
5 jp/nh/5

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1 1 Section 1. Section 237A.3, subsection 2, Code 2009, is
1 2 amended to read as follows:

1 3 2. a. A person shall not provide child care as a child
1 4 care home provider unless the person and any person who
1 5 resides or will reside in the child care home have been
1 6 subject to a fingerprint-based national criminal history
1 7 record check in accordance with section 237A.5.

1 8 b. If a person or program does not comply with paragraph
1 9 "a" or has been prohibited by the department from involvement
1 10 with child care, the person or program shall not provide child
1 11 care as a child care home provider and is subject to penalty
1 12 under section 237A.19 or injunction under section 237A.20 for
1 13 doing so.

1 14 Sec. 2. Section 237A.5, subsection 2, paragraph a,
1 15 subparagraph (1), subparagraph subdivision (e), Code 2009, is
1 16 amended to read as follows:

1 17 (e) The person will provide or is providing child care as
1 18 a child care home provider or will reside or resides in a
1 19 child care home that is not registered under this chapter ~~but~~
1 20 ~~that receives public funding for providing child care.~~

1 21 Sec. 3. Section 237A.5, subsection 2, paragraphs b and c,
1 22 Code 2009, are amended to read as follows:

1 23 b. If an individual person subject to a record check is
1 24 being considered for employment by a child care facility or
1 25 child care home, in lieu of prior to requesting a
1 26 fingerprint-based record check to be conducted by the
1 27 department under paragraph "c", the child care facility or
1 28 child care home may access the single contact repository
1 29 established pursuant to section 135C.33 as necessary to
1 30 conduct a criminal and child abuse record check of the
1 31 individual in this state. A copy of the results of the record
1 32 check conducted through the single contact repository shall
1 33 also be provided to the department. If the record check
1 34 indicates the individual is a person subject to an evaluation,
1 35 the child care facility or child care home may request that
2 1 the department perform an evaluation as provided in this
2 2 subsection. Otherwise, the individual shall not be employed
2 3 by the child care facility or child care home. The cost of
2 4 accessing the single contact repository is the responsibility
2 5 of the child care facility or home.

2 6 c. (1) Unless a record check has already been conducted
2 7 in accordance with paragraph "b", For a person subject to a
2 8 record check, in addition to any record check conducted
2 9 pursuant to paragraph "b" and the record checks conducted
2 10 under subparagraph (2), the person's fingerprints shall be
2 11 provided to the department of public safety for submission
2 12 through the state criminal history repository to the United
2 13 States department of justice, federal bureau of investigation
2 14 for a national criminal history record check. For a child
2 15 care home that is not registered under this chapter, the cost
2 16 of the national criminal history record check for a person who
2 17 will provide or is providing child care or will reside or
2 18 resides in that child care home shall be paid by the person.
2 19 Otherwise, the cost of the national criminal history record
2 20 check and any other record checks conducted under this

2 21 lettered paragraph is the responsibility of the department.

2 22 (2) In addition to the national criminal history record
2 23 check, the department shall conduct a criminal and child abuse
2 24 record check in this state for a person who is subject to a
2 25 record check and may conduct such a child abuse record check
2 26 in other states. In addition, the department may conduct a
2 27 dependent adult abuse, sex offender registry, or other public
2 28 or civil offense record check in this state or in other states
2 29 for a person who is subject to a record check. If record
2 30 checks of a person who is subject to a record check have been
2 31 conducted through the single contact repository as described
2 32 in paragraph "b", the department may forego the record checks
2 33 addressed by this subparagraph.

2 34 (3) If a record check performed pursuant to this paragraph
2 35 identifies an individual as a person subject to an evaluation,
3 1 an evaluation shall be performed to determine whether
3 2 prohibition of the person's involvement with child care is
3 3 warranted. The evaluation shall be performed in accordance
3 4 with procedures adopted for this purpose by the department.

3 5 (4) Prior to performing an evaluation, the department
3 6 shall notify the affected person, licensee, registrant, or
3 7 child care home applying for or receiving public funding for
3 8 providing child care, that an evaluation will be conducted to
3 9 determine whether prohibition of the person's involvement with
3 10 child care is warranted.

3 11 EXPLANATION

3 12 This bill requires a national criminal history record check
3 13 for certain child care providers.

3 14 Code section 237A.3, relating to requirements for
3 15 unregistered child care homes, is amended to prohibit a child
3 16 care home from operating unless the provider and anyone
3 17 residing with the provider has been subject to a
3 18 fingerprint-based national criminal history record check as
3 19 required by the bill. Violation of this requirement is a
3 20 simple misdemeanor under Code section 237A.19 and each day may
3 21 be a separate offense. A simple misdemeanor is punishable by
3 22 confinement for no more than 30 days or a fine of at least \$65
3 23 but not more than \$625 or by both. In addition, the provider
3 24 may be restrained by temporary or permanent injunction under
3 25 Code section 237A.19.

3 26 Code section 237A.5, relating to criminal history and child
3 27 abuse record check requirements for child care providers, is
3 28 amended to apply the record check requirements to all
3 29 unregistered child care homes. Current law applies the
3 30 requirement only to child care homes that receive public
3 31 funding. In addition, a fingerprint-based national criminal
3 32 history record check is required for all registered,
3 33 unregistered, and licensed child care providers. The cost of
3 34 the fingerprint-based record check is the responsibility of
3 35 the department of human services except for unregistered child
4 1 care homes which are required to pay the cost for the provider
4 2 and those who are residing or will reside with the
4 3 unregistered provider.

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